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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.          | CONFIRMATION NO. |
|---|-------------|----------------------|------------------------------|------------------|
| 10/676,825  | 09/30/2003  | Reiner Hammerich     | 13913-063001 /<br>2003P00075 | 3059             |
| 22852   | 7590        | 04/18/2007           | EXAMINER                     |                  |
| FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER<br>LLP<br>901 NEW YORK AVENUE, NW<br>WASHINGTON, DC 20001-4413 |             |                      | DAO, THUY CHAN               |                  |
|   |             |                      | ART UNIT                     | PAPER NUMBER     |
|   |             |                      | 2192                         |                  |
| SHORTENED STATUTORY PERIOD OF RESPONSE  | MAIL DATE   | DELIVERY MODE        |                              |                  |
| 3 MONTHS  | 04/18/2007  | PAPER                |                              |                  |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

|                              |                 |                  |
|------------------------------|-----------------|------------------|
| <b>Office Action Summary</b> | Application No. | Applicant(s)     |
|                              | 10/676,825      | HAMMERICH ET AL. |
|                              | Examiner        | Art Unit         |
|                              | Thuy Dao        | 2192             |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 23 January 2007.
- 2a) This action is **FINAL**.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) \_\_\_\_\_ is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-4, 11-14 and 21 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) 5-10 and 15-20 are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 30 September 2003 is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_

### **DETAILED ACTION**

1. This action is responsive to the amendment filed on January 23, 2007.
2. Claims 1-21 have been examined.

### **Response to Amendments**

3. Per Applicants' request, claims 1, 5, 10, 11, 15, 20, and 21 have been amended.
4. The 35 USC §112, second paragraph rejection over claims 10 and 20 is withdrawn in view of Applicants' amendments.
5. The 35 USC §101 rejection over claims 11-21 is withdrawn in view of Applicants' amendments.

### **Specification**

6. The specification is objected to because of minor informalities: page 4, line 16, "A *anguage-independent...*" is misspelled. Appropriate correction is required.

### **Response to Arguments**

7. The Applicants are thanked for a thorough reply. Applicants' arguments have been considered but are moot in view of the new ground(s) of rejection. Applicants' amendment necessitated the new ground(s) of rejection presented in this Office action

### **Restrictions**

8. Independent claims 5, 10, 15, and 20 have been significantly amended, which now explicitly direct to a distinct invention, thus prompt this Restriction requirement. Restriction to one of the following inventions is required under 35 U.S.C. 121:

(AB<sub>br</sub>). **Claims 1-4, 11-14, and 21:** is drawn to a method, a computer program product, and an apparatus for validating programs implemented using a compiler-language section, which comprises a step of generating a

language-dependent program comprising an interface (i.e., claim 1, lines 9-10).

(B<sub>sp</sub>). **Claims 5-10 and 15-20:** specifically claims 5, 10, 15, and 20: is drawn to a method, a computer program product for validating programs implemented using a compiler-language section and a script language section, which comprises a step of generating a language-dependent program comprising a script code section in a language that does not support interfaces (i.e., claim 5, lines 7-9, emphasis added).

The claimed invention (AB<sub>br</sub>) does not require the specific characteristics of the subcombination (B<sub>sp</sub>), i.e., using a script language section and a script code section in a language that does not support interfaces. They are distinct inventions and restriction is proper. See MPEP § 806.05(c).

Because these inventions are distinct for the reasons given above and the search required for Group (AB<sub>br</sub>) is neither required for Group (B<sub>sp</sub>), restriction for examination purposes as indicated is proper (emphasis added).

Since the Applicants have received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, **claims 5-10 and 15-20** are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

#### **Claim Rejections – 35 USC § 102**

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United

States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

10. Claims 1-4, 11-14, and 21 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent Publication No. 2003/0182625 A1 to Davidov et al. (art made of record, hereinafter "Davidov").

**Claim 1:**

Davidov discloses a computer program product, an apparatus, and a *method for validating programs* (e.g., FIG. 1, [0126]; FIG. 3-4, [0235]), the *method comprising*:

*receiving a language-independent description of a computer program, the language-independent description comprising a definition module and an implementation module* (e.g., [0013], [0018]),

*the implementation module defining a class to be implemented by the program* (e.g., FIG. 3-4, [0235]) and

*the definition module defining an interface associated with the class* (e.g., FIG. 1, [0126], [0061]);

*validating the language-independent description* (e.g., [0022], [0044], [0133], [0217]);

*generating a language-dependent program from the language-independent description* (e.g., [0018], [0038], [0089]),

*the language-dependent program comprising the interface and the class; and validating the language-dependent program* (e.g., [0087-0089], [0219], [0109]).

**Claim 2:**

The rejection of claim 1 is incorporated. Davidov also discloses *validating the language-independent description comprises validating the syntax of the definition module and the implementation module* (e.g., [0022], [0044], [0133], [0217]).

**Claim 3:**

The rejection of claim 1 is incorporated. Davidov also discloses *validating the language-dependent program comprises compiling the interface and the class* (e.g., [0087-0089], [0219], [0109]).

**Claim 4:**

The rejection of claim 1 is incorporated. Davidov also discloses *the definition module and the implementation module are represented in a meta-language or using a tree structure* [0013], [0018]).

**Claims 11-14:**

Claims 11-14 are computer program product versions, which recite the same limitations as those of claims 1-4, wherein all claimed limitations have been addressed and/or set forth above. Therefore, as the reference teaches all of the limitations of the above claims, it also teaches all of the limitations of claims 11-14.

**Claim 21:**

Claim 21 is a computer program product version, which recites the same limitations as those of claim 1, wherein all claimed limitations have been addressed and/or set forth above. Therefore, as the reference teaches all of the limitations of the above claim, it also teaches all of the limitations of claim 21.

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

12. Claims 1, 11, and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 7,051,316 to Charisius et al. (art made of record, hereinafter "Charisius").

**Claim 1:**

Charisius discloses a computer program product, an apparatus, and a *method for validating programs* (e.g., FIG. 38D, 51 and related text), *the method comprising:*

*receiving a language-independent description of a computer program, the language-independent description comprising a definition module and an implementation module* (e.g., FIG. 38D, block 3844/YES, col.40: 57 – col.41: 13),

*the implementation module defining a class to be implemented by the program* (e.g., FIG. 51, col.42: 37 – col.43: 15, items 5100-5126) and

*the definition module defining an interface associated with the class; validating the language-independent description* (e.g., col.42; 10-36; col.43 57 – col.44: 41);

*generating a language-dependent program from the language-independent description* (e.g., col.45: 65 – col.46: 48; col.32: 38 – col.33: 67),

*the language-dependent program comprising an interface and a class; and validating the language-dependent program* (e.g., FIG. 38E-F, col.47: 3 – col.48: 41).

**Claim 11:**

Claim 11 is a computer program product version, which recites the same limitations as those of claim 1, wherein all claimed limitations have been addressed and/or set forth above. Therefore, as the reference teaches all of the limitations of the above claim, it also teaches all of the limitations of claim 11.

**Claim 21:**

Claim 21 is a computer program product version, which recites the same limitations as those of claim 1, wherein all claimed limitations have been addressed

and/or set forth above. Therefore, as the reference teaches all of the limitations of the above claim, it also teaches all of the limitations of claim 21.

### Conclusion

13. Applicants' amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

14. Any inquiry concerning this communication should be directed to examiner Thuy Dao (Twee), whose telephone is (571) 272 8570. The examiner can normally be reached on Monday, Tuesday, Thursday, and Friday from 6:00AM to 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Q. Dam, can be reached at (571) 272 3695.

The fax phone number for the organization where this application or proceeding is assigned is (571) 273 8300.

Any inquiry of a general nature of relating to the status of this application or proceeding should be directed to the TC 2100 Group receptionist whose telephone number is (571) 272 2100.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

T. Dao



TUAN DAM  
SUPERVISORY PATENT EXAMINER